

Title VIII – Forestry

SUBTITLE A – REPEAL OF CERTAIN FORESTRY PROGRAMS

(1) Watershed Forestry Assistance Program

The House bill repeals the Watershed Forestry Assistance Program in the Cooperative Forestry Assistance Act of 1978, effective on October 1, 2013. (Section 8002)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment. The amendment eliminates the effective date. (Section 8002)

(2) Expired Cooperative National Forest Products Marketing Program

The House bill repeals the Cooperative National Forest Products Marketing Program in the Cooperative Forestry Assistance Act of 1978 which has been expired. (Section 8003)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8003)

(3) Separate forest service decision making and appeals process

The House bill repeals Section 322 of the Department of the Interior and Related Agencies Appropriations Act, 1993. It prohibits application of Section 428 of the Consolidated Appropriations Act, 2012 to any project or activity implementing a land and resource management plan that is categorically excluded from an EA or EIS under NEPA. (Section 8006)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8006)

This provision clarifies the intent of Congress regarding administrative review of projects and activities implementing land and resource management plans. This language came as a result of a federal court decision in March 2012 that the Forest Service must engage in this process for noncontroversial, common sense actions that provide jobs, public safety, community fire protection, and clean water. This is not required of the Department of Interior or any other federal agency. This provision would return the agency to the procedures that were in place prior to the 2012 court decision.

SUBTITLE B – REAUTHORIZATION OF COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978 PROGRAMS

(4) State-wide assessment and strategies for forest resources

The House bill requires the State Forester or equivalent State official in developing or updating the State-wide assessment and strategy for forest resources to coordinate with, when feasible, appropriate military installations. (Section 8101)

The Senate amendment extends the authorization of appropriations for the state-wide assessment and strategies for forest resources through 2018.

The Conference substitute adopts the House provision with an amendment. The

amendment provides for the extension of the authorization of appropriations for state-wide assessment and strategies for forest resources that was in the Senate amendment. (Section 8101)

The 2008 farm bill conference report included language directing state foresters to perform statewide assessments of forest lands within their borders to better understand how to properly manage these resources. The first reports came back in 2010. The Managers considered these reports a success and adopted the House provision that directs state foresters to coordinate with military facilities within their borders when developing future plans.

(5) Forest Legacy Program

The House bill eliminates the authorization for the Forest Legacy Program of such sums as necessary and replaces it with an authorization of appropriations of \$55,000,000 for fiscal years 2014 through 2018. (Section 8102)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(6) Community Forest and Open Space Conservation Program

The House bill eliminates the authorization for the Community Forest and Open Space Conservation Program of such sums as necessary and replaces it with an authorization of appropriations of \$1,500,000 for fiscal years 2014 through 2018. (Section 8103)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

SUBTITLE C – REAUTHORIZATION OF OTHER FORESTRY-RELATED LAWS

(7) Office of International Forestry

The House bill authorizes appropriations of \$6,000,000 for fiscal years 2014 through 2018 for the Office of International Forestry. (Section 8202)

The Senate amendment extends authorization of appropriations through fiscal year 2018. (Section 8202)

The Conference substitute adopts the Senate provision. (Section 8202)

(8) Change in funding source for Healthy Forests Reserve Program

The House bill authorizes appropriations of \$9,750,000 for fiscal years 2014 through 2018. Appropriated funds may be used to carry out the Soil Conservation and Domestic Allotment Act for land enrolled in the program. (Section 8203)

The Senate amendment is the same as the House. It defines the term “Acreage Owned by Indian Tribes” for the purposes of Section 502(e)(3). (Section 8205)

The Conference substitute adopts the Senate provision with an amendment. The amendment increases the authorization levels from \$9,750,000 to \$12,000,000. (Section 8203)

The Managers intend to clarify the definition of Indian-owned acreage for the program managed by NCRS. Further, as a result of the potential increase in participation

in the program, the Managers increased the authorization level.

(9) Stewardship end result contracting project authority

The House bill states that section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999 is reauthorized through fiscal year 2018. It authorizes the Secretary to consider a Stewardship Contract as a contract for the sale of property. Further, it requires the Chief of the Forest Service and the Director of Bureau of Land Management to issue fire liability provisions for use in all contracts and agreements under section 347. (Section 8204)

The Senate amendment repeals Section 347 of the Department of the Interior and Related Agencies Appropriations Act, 1999. It authorizes the Secretary to consider a Stewardship Contract as a contract for the sale of property. It further adds Stewardship End Result Contracting Projects to the Healthy Forests Restoration Act of 2003, authorizing the Forest Service and Bureau of Land Management to enter into stewardship end-result contracting projects (Stewardship Contracts) for services that achieve land management goals. The authorization is permanent. (Section 8204)

The Conference substitute adopts the Senate provision with an amendment. The amendment includes the House language that requires the Chief of the Forest Service and the Director of the Bureau of Land Management to issue fire liability provisions for use in all contracts and agreements under section 347. (Section 8205)

The Managers provide the Forest Service with a permanent extension of stewardship contracting authority. This approach to land management has proved to be effective nationwide since it was first authorized in 1999 and extended in 2003. Stewardship Contracting allows the Forest Service to conduct important forest restoration work by allowing the value of wood removed to help offset the cost of needed restoration treatments, like forest thinning, introduction of prescribed fire, and habitat improvements for a variety of species. The Managers include in this extension, provisions that allow for designation by prescription for the marking of timber under this program. The Conference substitute also includes language which provides the same fire liability provisions utilized under the current timber sales program to be available for Stewardship Contracts. The Managers do not intend for Stewardship Contracting to replace, diminish, or adversely impact the U.S. Forest Service's timber sales program.

The Managers expect the Chief to work with purchasers of Forest Service timber to address concerns they have raised about methods of selecting the winning bidders on Stewardship Contracts, and to provide feedback to losing bidders to help increase their understanding of the process to become more effective in the future.

(10) Insect and disease infestation

The Senate amendment authorizes the designation of treatment areas, as part of an insect and disease treatment program, one or more subwatersheds in at least one National Forest in each State that is experiencing an insect or disease epidemic within 60 days after the date of enactment of this Act. Additional areas may be designated as needed after the initial 60 day period. The Secretary may carry out priority projects on Federal land in designated subwatersheds to reduce the risk or extent of, or increase the resilience to, insect or disease infestation. Priority projects shall maximize the retention of old-growth and large trees, as appropriate and to the extent the trees promote stands resilient to insects and disease. The Senate amendment authorizes appropriations of \$200,000,000

for fiscal years 2014 through 2018. (Section 8203)

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment. The amendment replaces the subwatershed size treatment area with a landscape scale and includes a limited categorical exclusion for projects smaller than 3,000 acres. The program is authorized for 10 years through 2024. (Section 8204)

The outbreak of the pine bark beetle afflicting states across the nation is a great concern to the Managers. To date, an estimated 41 million acres have been affected across the United States, creating potentially hazardous fuel loads in several western states. The Managers agreement includes provisions to provide the Forest Service with increased flexibility to address this issue and work with partners to mitigate the potential damage.

The Conference substitute recognizes that the current system for managing national forests affected by historic insect infestations has not been responsive to the speed and widespread impact of the infestations. The final language builds on current law familiar to all stakeholders, the Healthy Forests Restoration Act, by targeting the law's application for a ten-year period to insect- and disease-affected forests. It appropriately focuses on landscape-scale restoration work and protects old-growth and large trees to the extent their retention promotes resilient stands in a given type of forest. The final language also includes a Categorical Exclusion (CE) under the National Environmental Policy Act that is subject to several critical sideboards.

The most important limitation is that any projects subject to a CE must be developed and implemented through a collaborative process that is transparent, nonexclusive, and includes multiple and diverse stakeholders. Collaborative forest restoration partnerships have a proven record of fostering the social license that is crucial to managing our public lands appropriately. The Conference substitute recognizes the success of forest collaboratives and encourages their continued work across the country. Additional limitations to use of the CE include that projects may be no larger than 3,000 acres; projects may only take place in the wildland-urban interface or in forests facing a risk of fire greater than their historical norm; no permanent roads may be constructed and any temporary roads must be decommissioned within three years; and the Forest Service must report to Congress each year about its use of the CE.

The Mountain Pine Beetle Response Project (MPBR) in the Black Hills National Forest can be used as a model for the type and scale of projects that are to be conducted with these provisions to keep pace with expanding insect infestations. The MPBR Project encompasses approximately 248,000 acres of National Forest System lands and includes approximately 122,000 acres of thinning or other measures aimed at reducing stand density and hazardous fuels. The Managers expect that acres covered by the projects are tailored to the local circumstances depending on the size of the forest and scope of the infestation. The authority in these provisions provides the Forest Service with additional tools to replicate these types of landscape scale projects across the country in coordination with local stakeholders.

SUBTITLE D – NATIONAL FOREST CRITICAL AREA RESPONSE

(11) Definitions

The House bill defines the terms “Critical Area”, “National Forest System”, and “Secretary” for the purposes of this title. (Section 8301)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(12) Designation of critical areas

The House bill provides for the designation of critical areas within the National Forest System to address deteriorating forest health conditions due to insect infestation, drought, disease or storm damage and the future risk of insect infestations or disease outbreaks through preventative treatments. (Section 8302)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Application of expedited procedures and activities of the Healthy Forests Restoration Act of 2003 to critical areas

The House bill authorizes the application of Title I of the Healthy Forests Restoration Act of 2003 to all Forest Service projects and activities carried out in a critical area and requires the same projects and activities be consistent with the applicable land and resource management plan. However, Sec. 322 of P.L. 102-381 will not apply to projects conducted in accordance with this section, and in applying Title I, the authority shall apply to the entire critical area and all projects and activities of the Forest Service shall be considered as authorized hazardous fuel reduction projects. Certain smaller projects shall be considered an action categorically excluded from the requirements of an environmental assessment or an environmental impact statement and exempt from section 105 of the Healthy Forests Restoration Act of 2003. (Section 8303)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(14) Good neighbor authority

The House bill authorizes the Secretary to enter into cooperative agreements or contracts with a state forester to provide forest, rangeland, and watershed restoration, management and protection services on National Forest System land. (Section 8304)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment.

(Section 8206)

The Conference substitute includes language that allows for the Secretary to enter into cooperative agreements with state foresters nationwide to engage in management activity, otherwise known as Good Neighbor Authority. This practice allows for better coordination between federal and state officials in promoting healthy state forests. The Managers note the successful implementation of this program in Colorado and Utah and recognize the benefit to extending this authority nationwide. The Managers expect the Secretary to seek projects which utilize the full range of contracting tools available to accomplish the objectives of Good Neighbor Authority.

SUBTITLE E – MISCELLANEOUS PROVISIONS

(15) Forest service participation in ACES program

The House bill authorizes the Secretary to use funds from conservation-related programs on National Forest lands to utilize the Agriculture Conservation Experienced Services Program to provide technical service on conservation-related programs. (Section 8402)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8302)

The Managers are concerned about the increasing number of retirements among Forest Service employees in recent years and the loss of institutional knowledge as a result. The Conference substitute includes language to allow the Forest Service to hire retired employees under the Agriculture Conservation Experienced Services (ACES) program. The Forest Service will continue to see a large number of retirements in the coming years. Allowing the Forest Service to participate in the ACES program allows the agency to retain the institutional knowledge acquired through the years by these senior employees.

(16) Green Science and Technology Transfer Research under Forest and Rangeland Renewable Resources Research Act of 1978

The House bill includes as a priority science and technology transfer through the Forest Products Lab to demonstrate the beneficial characteristics of wood as a green building material. It requires the Secretary to submit an annual report describing the research conducted in furtherance of the priority added above, the number of buildings the Forest Service has built with wood and the investments made by the Forest Service in green building wood promotion. (Section 8403)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

(17) Extension of stewardship contract authority

The House bill authorizes designation by description and designation by prescription as valid methods of designation for timber sales. Both methods may be supervised by use of post-harvest cruise, sample weight scaling or other methods. (Section 8404)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8303)

(18) Reimbursement of fire funds

The House bill requires that the State seeking reimbursement and the State providing reimbursement must each have a mutual assistance agreement with the Forest Service or an agency of the Department of the Interior. (Section 8405)

The Senate amendment requires that the State seeking reimbursement and the State providing reimbursement must each have a mutual assistance agreement with the Forest Service or another Federal agency. (Section 8303)

The Conference substitute adopts the Senate provision. (Section 8304)

(19) Ability of National Forest System lands to meet needs of local wood producing facilities for raw materials

The House bill requires the Secretary to submit to Congress a report regarding raw material needs of wood producing facilities within the boundaries of each National Forest System unit or within 100 miles of such boundaries and the ability of each unit to meet the needs of such facilities, including information on the volume of timber available, sold and harvested from each unit. (Section 8406)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

Although the Managers did not adopt the House provision directing the Secretary to issue a report to Congress on its ability to provide raw material to facilities within 100 miles of a national forest, the Managers encourage the Forest Service to engage with the sawmill owners who utilize material harvested from National Forest System land. The Managers are concerned that certain regions within the National Forest System are not meeting the timber production target laid out in their management plans. The Managers note that many wood producing facilities are dependent on material produced on National Forest land and that all 10 regions of the National Forest System should strive to meet their target where appropriate.

(20) Report on the National Forest System roads

The House bill requires the Secretary to submit to Congress a report regarding National Forest System roads and trails. (Section 8407)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.

Although the Managers did not adopt the House provision which required the Secretary to issue a report to Congress on the state of the National Forest System roads, the Managers believe this is an important issue and encourage the Forest Service to prioritize the maintenance of currently used roads.

(21) Forest Service Large Airtanker and Aerial Asset Firefighting Recapitalization Pilot Program

The House bill authorizes the Secretary to establish a large airtanker and aerial asset lease program. (Section 8408)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8305)

The 2012 and 2013 wildfire seasons have been some of the worst on record. The devastating wildfires are important reminders that the Forest Service's current available large airtanker fleet is vastly inadequate to meet our expected firefighting needs now or in the coming years. The U.S. Forest Service's Large Airtanker Modernization Strategy, released in 2012, recommended a "next generation" aerial solution and specifically stated that "[airtankers] are important to the Federal, state, and local wild land firefighting missions of protecting communities and natural resources from wildfires and to successfully managing wildfires in this country." The report also stated that "the current fleet of large airtankers is old, with an average of age of more than 50 years... With rising age, the cost of maintaining large airtankers is rapidly increasing, as are the risks associated with using them." Support for implementing the modernization strategy is urgently needed before the Forest Service is unable to adequately respond to future fires.

The Managers strongly support the establishment of a large airtanker and aerial asset lease program to support the Forest Service's vital modernization strategy for its firefighting large airtanker fleet.

(22) Land conveyance, Jefferson National Forest in Wise County, Virginia

The House bill authorizes the Secretary to convey upon payment all right, title and interest of the U.S. in and to a parcel of National Forest System land in the Jefferson National Forest in Wise County, Virginia. (Section 8409)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision. (Section 8306)

(23) Categorical exclusion for forest projects in response to emergencies

The House bill states that any forest project carried out to clean up or restore damaged National Forest System land during a two-year period following the date of a presidential disaster or emergency declaration shall be categorically excluded from an environmental assessment or environmental impact statement. (Section 8410)

The Senate amendment contains no comparable provision.

The Conference substitute adopts the Senate provision.